

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:20-CV-260

VICTORIA PETERSON,

Plaintiff,

vs.

NORTH CAROLINA STATE BOARD OF
ELECTIONS; DURHAM COUNTY BOARD
OF ELECTIONS; ALEJANDRA JAVIERA
CABALLERO,

Defendants.

**MOTION TO DISMISS OF
DEFENDANT CABALLERO**

Fed. R. Civ. Pro. Rule 12 (b)(1)

Fed. R. Civ. Pro. Rule 12 (b)(6)

NOW COMES DEFENDANT Alejandra Javiera Caballero and respectfully moves the Court to dismiss the Plaintiff's Complaint pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure on grounds that this Court lacks subject-matter jurisdiction. In the alternative, Defendant respectfully moves that the court dismiss the Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure because it fails to state a claim against Defendant upon which relief can be granted and because Plaintiff is collaterally estopped from relitigating matters of state law previously decided by the North Carolina trial court with specific jurisdiction over the issues.

In support of this Motion, and pursuant to Local Rules 7.1(a), 7.2 and 7.3(a), M.D.N.C., Defendant Caballero files contemporaneously herewith the Brief in Support of Motion to Dismiss, which discusses in detail the bases for the present Motion.

WHEREFORE the Defendant Caballero respectfully requests that the Court dismiss all claims asserted against the Movant.

This the 4th day of August, 2020.

OFFICE OF THE CITY ATTORNEY

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*Attorneys for Defendant Alejandra Javiera
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, pursuant to Rule 5 of the Federal Rules of Civil Procedure and LR5.3 and LR5.4, MDNC, the foregoing pleading, motion, affidavit, notice, or other document/paper has been electronically filed with the Clerk of Court using the CM/ECF system, which system will automatically generate and send a Notice of Electronic Filing (NEF) to the undersigned filing user and registered users of record, and that the Court's electronic records show that each party to this action is represented by at least one registered user of record, to each of whom the NEF will be transmitted, except that, with respect to the following party, a copy is being transmitted via first class mail to the address listed below:

Victoria Peterson
810 Ridgeway Avenue
Durham, North Carolina 27701

This the 4th day of August, 2020.

OFFICE OF THE CITY ATTORNEY

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